

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

Good Fellas Market,

Plaintiff,

vs.

AmGuard Insurance Company,

Defendant.

2:24-cv-02216-CDS-MDC

**ORDER GRANTING LEAVE TO AMEND**

Pending before the Court is plaintiff's *Countermotion to Amend* (ECF No. 10). For the reasons stated below, the Court GRANTS the Countermotion.

**DISCUSSION**

**I. BACKGROUND**

Plaintiff initially filed this action in the Eighth Judicial District Court, Clark County, Nevada on November 5, 2024. ECF No. 1. Defendant subsequently removed the action to federal court in the United District Court, District of Nevada on November 27, 2024. *Id.* On December 4, 2024, defendant filed a *Motion to Dismiss* (ECF No. 6) plaintiff's complaint pursuant to FRCP 12(b), (e), and (f).

On December 17, 2024, plaintiff its *Opposition* to the *Motion to Dismiss* (ECF No. 9) and *Countermotion For Leave to file First Amended Complaint* (ECF No. 10). Plaintiff's Countermotion attached a copy of the proposed First Amended Complaint as an exhibit. *See* ECF No. 10-1. On December 19, 2024, the Court granted the parties' *Stipulated Discovery Plan and Scheduling Order* (ECF No. 12), which provides a March 4, 2024, deadline for amended pleadings. Defendant opposes plaintiff's *Countermotion* on the grounds that plaintiff's request to amend is not ripe and that amendment would be futile. ECF No. 14. This order only addresses Plaintiff's *Countermotion* for leave to amend (ECF No. 10) does not address the motion to dismiss.

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**II. ANALYSIS**

Under Rule 15(a)(1)(A) and (B) of the Federal Rules of Civil Procedure, a party can amend its pleadings once “as a matter of course” no later than:

- [1] “21 days after serving” the original pleading;
- [2] “21 days after service of a responsive pleading” (*e.g.*, an answer); or
- [3] “21 days after service of a motion under Rule 12(b), (e), or (f).”

*Id.* The Ninth Circuit has generally held that Rule 15(a) should be “applied with extreme liberality.” *Eminence Capital, LLC v. Aspeon, Inc.*, 316 F.3d 1048, 1051 (9th Cir. 2003).

Plaintiff’s Countermotion and proposed First Amended Complaint were filed on December 17, 2024 (ECF No. 10), no later than 21 dates after defendant filed and served its *Motion to Dismiss* (ECF No. 6) on December 4, 2024. Therefore, plaintiff’s right to file the First Amended Complaint (ECF No. 10-1) was as a matter of course. *See* FRCP 15(a)(1)(B). Consequently, defendant’s opposition is immaterial, and its “ripe” argument contradicted by Rule 15(a)(1)(B). The Court therefore grants plaintiff’s Countermotion pursuant to FRCP 15(a)(1)(B).

ACCORDINGLY,

**IT IS ORDERED that:**

1. The *Countermotion to Amend* (ECF No. 10) is GRANTED.
2. The Clerk of Court is kindly requested to immediately file as a stand-alone document, Plaintiff’s First Amended Complaint (previously filed at ECF No. 10-1).

DATED this 31st day of December 2024.

IT IS SO ORDERED.

  
Hon. Maximiliano D. Couvillier III  
United States Magistrate Judge